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EXAMINER

FUREMAN, JARED

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/502,274

Applicant(s)

MCCARTHY ET AL.

Examiner

Jared J. Fureman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-35 is/are pending in the application.
- 4a) Of the above claim(s) 21-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-20, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of the petition for extension of time, IDS, and amendment, filed on 4/18/2003, which have been entered in the file. Claims 1-9 and 11-35 are pending, with claims 21-33 being drawn to a non-elected species.

Drawings

1. The corrected or substitute drawings were received on 4/21/2003. These drawings are not acceptable. Applicants have not provided a replacement drawing sheet including all of the figures appearing on the immediate prior version of the sheet (the sheet provided with the amendment filed on 4/18/2003 includes only figure 4, however, the original sheet included figures 3 and 4).

Claim Objections

2. Claim 34 is objected to because of the following informalities: Claim 34, line 5: "it" should be replaced with --the flag--, in order to clarify the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 10, 14, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan (US 5,560,657, previously cited).

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Morgan teaches a cargo closure (10) for sealing a cargo item (a container, such as luggage, brief cases, etc.) in a closed condition comprising a tie (tongue 14) and a data carrying member (base area 12), the tie being permanently closable in the sense that once closed, the tie cannot easily be opened without rupturing the tie, and being adapted to secure the data carrying member to a said cargo item, wherein the data carrying member comprises a flag (halves 18 and 19 of the base area represent a flag) having a median zone of weakness (fold line 16) at which the flag is foldable, wherein some or all of the data (imprinted indicia 22) is in the form of visually legible characters, the cargo item comprising two components (for example: the components of a piece of luggage or the components of a briefcase) which are relatively movable to open the cargo item, the tie being operable to secure together the data carrying member and the two relatively movable components in such manner that the two components cannot be separated and thus the cargo item cannot be opened without rupture of the tie, wherein at least one of the relatively movable components comprises part of a zip fastening device (zipper end tags) (see figures 1-3, column 3 lines 29-48, 58-65, and column 4 line 66 - column 5 line 2).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Moberg et al (US 4,001,919, previously cited).

The teachings of Morgan have been discussed above.

Morgan fails to teach the tie comprising a stem and a member having an opening into which the stem may be inserted, the stem and opening comprising co-operating surface formations adapted and arranged to allow insertion of the stem into the opening and to resist the stems withdrawal therefrom, the stem comprising a zone of weakness, the ultimate tensile strength of the zone of weakness being below the force required to withdraw the stem from the opening, the stem comprising stop means operative to limit insertion of the stem into the opening, wherein the surface formations comprise a series of axially spaced ribs and such ribs are of a generally saw-toothed shaped profile, wherein the ribs extend around the stem in substantially circular manner.

Moberg et al teaches a cargo closure (seal 10) for sealing a cargo item (for example, bag 18) in a closed condition comprising a tie, the tie being permanently closable in the sense that once closed, the tie cannot easily be opened without rupturing the tie, tie comprising a stem (a shackle having portions 38, 24, and 22) and a member having an opening (aperture 25) into which the stem may be inserted, the stem and opening comprising co-operating surface formations (shoulder 28 formed by enlargements 29 and fingers 26) adapted and arranged to allow insertion of the stem into the opening and to resist the stems withdrawal therefrom, the stem comprising a zone of weakness (slot 30), the ultimate tensile strength of the zone of weakness being below the force required to withdraw the stem from the opening, the stem comprising

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stop means (portion 22, which is wide and flat) operative to limit insertion of the stem into the opening, wherein the surface formations comprise a series of axially spaced ribs and such ribs are of a generally saw-toothed shaped profile, wherein the ribs extend around the stem in substantially circular manner (see figures 1-4, column 1 lines 5-8, 36-58, column 2 lines 4-26, column 2 line 35 - column 3 line 21).

In view of Moberg et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Morgan, tie comprising a stem and a member having an opening into which the stem may be inserted, the stem and opening comprising co-operating surface formations adapted and arranged to allow insertion of the stem into the opening and to resist the stems withdrawal therefrom, the stem comprising a zone of weakness, the ultimate tensile strength of the zone of weakness being below the force required to withdraw the stem from the opening, the stem comprising stop means operative to limit insertion of the stem into the opening, wherein the surface formations comprise a series of axially spaced ribs and such ribs are of a generally saw-toothed shaped profile, wherein the ribs extend around the stem in substantially circular manner, in order to provide a seal which is easily, intentionally fractured, without the requirement for cutting the cargo closure (see column 3 lines 13-21).

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan as modified by Moberg et al as applied to claim 7 above, and further in view of Georgopoulos et al (US 5,524,945, previously cited).

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Morgan as modified by Moberg et al fails to specifically teach wherein a said co-operating surface formation on the opening is spaced from each end of that opening by an amount which is greater than the axial spacing of the ribs.

Georgopoulos et al teaches a cargo closure (security seal 10) having a stem (shackle 18) and a member (projection 24) having an opening (30) into which the stem may be inserted, the stem and opening comprising co-operating surface formations adapted and arranged to allow insertion of the stem into the opening and to resist the stems withdrawal therefrom, wherein the surface formations comprise a series of axially spaced ribs (95) and such ribs are of a generally saw-toothed shaped profile, wherein a said co-operating surface formation (110, 114) on the opening is spaced from each end of that opening by an amount which is greater than the axial spacing of the ribs (see figures 1, 13-15, column 1 lines 4-7, column 3 line 16 - column 4 line 2, column 4 line 54 - column 5 line 3).

In view of Georgopoulos et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Morgan as modified by Moberg et al, wherein a said co-operating surface formation on the opening is spaced from each end of that opening by an amount which is greater than the axial spacing of the ribs, in order to improve the security of the closure.

8. Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Georgopoulos et al.

The teachings of Morgan have been discussed above.

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Morgan fails to specifically teach the tie and data carrying member being constituted by an integral moulding of thermoplastics material, wherein some of the data is in machine readable form.

Georgopoulos et al teaches a cargo closure (security seal 10) wherein a tie (shackle 18) and a data carrying member (flag 14) are constituted by an integral moulding of thermoplastics material, wherein some of the data is in machine readable form (indicia 20) (see figure 1, column 1 lines 4-7, and column 3 lines 16-29).

In view of Georgopoulos et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Morgan, the tie and data carrying member being constituted by an integral moulding of thermoplastics material, in order to allow efficient production of the closure, and wherein some of the data is in machine readable form, in order to allow quick and accurate entry of the data into a computer system.

9. Claims 11, 12, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Javkin (US 3,352,040, previously cited).

The teachings of Morgan have been discussed above.

Morgan fails to specifically teach providing releasable snap-fit means for holding the foldable data carrying member in folded condition, wherein the folded data carrying member constitutes a pocket for retaining a removable data carrier, a travel document/ticket, the travel document containing ownership information.

Javkin teaches a tag (110) including snap-fit means (apertures 128 and detents 140) for holding a foldable data carrying member (plate portions 124, 126) in folded

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condition, wherein the folded data carrying member constitutes a pocket for retaining a removable data carrier (a name and address label) a travel document/ticket (the label can be considered a travel document or ticket), the travel document containing ownership information (the label contains the owners name) (see figures 5-7, column 1 lines 10-40, column 2 line 44 - column 3 line 13).

In view of Javkin's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Morgan, releasable snap-fit means for holding the foldable data carrying member in folded condition, wherein the folded data carrying member constitutes a pocket for retaining a removable data carrier a travel document/ticket, the travel document containing ownership information, in order to provide additional cargo data (data in addition to the signature as taught by Morgan) for identifying and/or routing the cargo.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan as modified by Javkin as applied to claim 12 above, and further in view of Teranishi et al (JP 10-13313 A, previously cited).

Morgan as modified by Javkin fails to specifically teach the removable data carrier comprising integrated circuit means.

Teranishi et al teaches a data carrier (a wireless identification sheet) that includes integrated circuit means (4) (see figure 1 and translations of the abstract, provided from both Derwent and JPO databases).

In view of Teranishi et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the data carrier as

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taught by Morgan as modified by Javkin, the removable data carrier comprising integrated circuit means, in order to allow wireless reading of the data carrier, thereby easing the identifying/routing operations of the cargo.

11. Claim 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Thompson (US 4,187,628, previously cited).

The teachings of Morgan have been discussed above.

Morgan fails to specifically teach a method of advertising including displaying advertising material on the data carrier, wherein the advertising material is on a label which is stuck to the data carrier.

Thompson teaches a method of advertising, including displaying advertising material (logo or other advertising material 66) on a data carrier (panels 46 and 48), wherein the advertising material is on a label (plate 50) which is stuck to the data carrier (the plate 50 is stuck to the data carrier in that the plate is attached to the panels by buttons 60 and 62) (see figures 4, 5, and column 7 lines 7-32).

In view of Thompson's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Morgan, a method of advertising including displaying advertising material on the data carrier, wherein the advertising material is on a label which is stuck to the data carrier, in order to promote a manufacturer or business associated with the cargo, thereby generating interest in possible customers.

Response to Arguments

12. Applicant's arguments filed 4/18/2003 have been fully considered but they are not persuasive.

In response to applicant's argument that with the tag, as taught by Morgan, there is no need for a zone of weakness to aid in folding; the tag of Morgan could be folded about any axis on its area (see pages 9-10 of the amendment filed on 4/18/2003), as Morgan shows in figures 1 and 2, the label 10 includes a fold line 16. The sides of the tag are tapered inward at both ends of the fold line, thereby creating a zone of weakness. Thus, the label will naturally fold along the intended fold line.

In response to applicant's argument that Moberg et al does not disclose a zone of weakness on the stem as is required by claims 2-4; Moberg et al's zone of weakness is not on the stem (see page 10 of the amendment filed on 4/18/2003), as discussed above, the stem as taught by Moberg includes a shackle having portions 38, 24, and 22. Moberg et al also provides a member (socket 20) having an opening 25, through which a portion of the stem is insertable. A zone of weakness (slot 30) is provided at the end of the stem portion 22, adjacent the member 20 (see figures 1, 2, column 2 lines 10-26 and 59-64). The zone of weakness 30 is designed such that the seal 10 will fracture when being pulled on (see column 3 lines 6-16). Thus, the shackle, as taught by Moberg et al, meets the limitations of applicant's claimed stem.

In response to applicant's argument that Georgopolous et al relates to security seals for coin bags; coin bags would not generally be categorized as cargo items (see page 11 of the amendment filed on 4/18/2003), the examiner respectfully disagrees that

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a coin bag would not generally be categorized as a cargo item. The purpose of a coin bag is to store and transport coins between different locations. Thus, a coin bag meets the broad definition of a cargo item.

In response to applicant's argument that Georgopolous et al is nonanalogous art and should not be considered alongside Morgan et al and Moberg et al (see page 11 of the amendment filed on 4/18/2003), it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Georgopolous et al is concerned with providing a seal for securing the contents of a closed bag (see the abstract, for example). Morgan et al and Moberg et al are also directed to providing seals for securing the contents of closed container. Thus, Georgopolous et al, Morgan et al, and Moberg et al are all within applicant's field of endeavor and are also reasonably pertinent to the particular problem with which applicant's are concerned, that is, sealing a cargo item (container) in a closed condition.

In response to applicant's argument that Teranishi et al relates to the labeling of bulk goods; it is inappropriate to combine this with the teaching of a document that relates to luggage labeling (see page 11 of the amendment filed on 4/18/2003), Teranishi et al relates to the identification of goods in an airport (see the Derwent translation of the title). Since luggage commonly travels through airports, luggage represents goods in an airport. Thus, Teranishi et al may be combined with a document

that relates to luggage labeling, since they are both within the same field of endeavor, the identification of items at an airport.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (703) 305-0424. The examiner can normally be reached on 7:00 am - 4:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

June 24, 2003

Jared J. Fureman
Jared J. Fureman

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